United States. District Court

EASTERN DISTRICT OF WISCONSIN

JUDGMENT IN A CIVIL CASE

TIMOTHY JOHN VICKROY,
LLOYD VICKROY,
Plaintiffs,

v. Case No. 01-C-1162

STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION;
INTERNET CORPORATION;
WEARER D. SWANNIGAN;
ULTEA, INC.;
COUNTY OF RACINE, WISCONSIN;
TOWNSHIP OF MOUNT PLEASANT,
WISCONSIN;
CRUM & FORSTER,

Defendants.

This action came before the court. The issues have been decided and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that this case is dismissed.

APPROVED: C. N. CLEVERT/s
C. N. CLEVERT
U. S. District Judge

SOFRON B. NEDILSKY
Clerk

9 -4 - 02 M. Jones/s
Date (By) Deputy Clerk

UNITED STATES DISTRICT COURT

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ULTEA, INC.;
COUNTY OF RACINE, WISCONSIN;
TOWNSHIP OF MOUNT PLEASANT,
WISCONSIN;
CRUM & FORSTER,

Defendants.

DECISION AND ORDER GRANTING WDOT'S MOTION TO DISMISS (DOC. #24), RACINE COUNTY'S MOTION TO DISMISS (DOC. #18), DEFENDANT MOUNT PLEASANT'S MOTION TO DISMISS (DOC. #32), GRANTING DEFENDANT ULTEA CORPORATION'S MOTION TO DISMISS (DOC. #25), GRANTING DEFENDANT CRUM & FORSTER'S MOTION TO DISMISS (DOC. #51), DENYING MOTION TO STRIKE TOWNSHIP OF MOUNT PLEASANT'S RESPONSE TO MOTION TO FILE FIRST AMENDED COMPLAINT (DOC. #46), DENYING MOTION TO STRIKE STATE OF WISCONSIN'S RESPONSE TO PLAINTIFF'S MOTION TO FILE AMENDED COMPLAINT (DOC. #48), DENYING MOTION FOR HEARING ON MOTION TO FILE AMENDED COMPLAINT (DOC. #42), DENYING MOTION FOR PARTIAL SUMMARY JUDGMENT (DOC. #60-1), DENYING MOTION TO COMPEL (DOC. #60-2), AND GRANTING MOTION FOR ENTRY OF JUDGMENT (DOC. #71)

This matter came before the court for a telephonic hearing on pending motions. Appearing for the pro se plaintiffs were Timothy John Vickroy and Lloyd Vickroy (the Vickroys). Appearing for defendant Wisconsin Department of Transportation (WDOT) was Assistant

Attorney General David E. Hoel. Appearing for defendants Internet Corporation (Internet), Wearer D. Swannigan, and Ultea Incorporated, and Crum & Forster Insurance Corporation was Attorney Jeffrey S. Fertl. Appearing for defendant Racine County was Assistant Corporation Counsel Matthew S. McVey. Appearing for defendant Township of Mount Pleasant was Attorney Gregg Heidenreich.

Before the court are five motions to dismiss, brought by various defendants, the Vickroy's motion to amend the complaint, the Vickroy's motion to dismiss (strike) WDOT's response to the motion to amend, the Vickroy's motion to dismiss (strike) the Township of Mount Pleasant's motion to dismiss the first amended complaint, the Vickroy's motion for partial summary judgment, and the Vickroy's motion to compel. For the reasons set forth on the record, the defendants' motions to dismiss will be granted, while all other motions shall be

denied as moot.

Now, therefore,

IT IS ORDERED that defendant Wisconsin Department of Transportation's Motion to Dismiss (Doc. #24) is granted.

IT IS FURTHER ORDERED that defendant Racine County's Motion to Dismiss (Doc. #18) is granted.

IT IS FURTHER ORDERED that defendant Mount Pleasant's Motion to Dismiss (Doc. #32) is granted.

IT IS FURTHER ORDERED that defendants Ultea Corporation's Motion to Dismiss (Doc. #25) is granted.

IT IS FURTHER ORDERED that defendant Crum & Forster's Motion to Dismiss (Doc. #51) is granted.

IT IS FURTHER ORDERED that plaintiff Lloyd and Timothy John Vickroy's Motion to Strike Township of Mount Pleasant's Response to Motion to File First

Amended Complaint (Doc. #46) is denied.

IT IS FURTHER ORDERED that plaintiff Lloyd and Timothy John Vickroy's Motion to Strike State of Wisconsin's Response to Plaintiff's Motion to File Amended Complaint (Doc. #48) is denied.

IT IS FURTHER ORDERED that plaintiff Lloyd and Timothy John Vickroy's Motion for a Hearing on Motion to File Amended Complaint (Doc. #42) is denied.

IT IS FURTHER ORDERED that plaintiff Lloyd and Timothy John Vickroy's Motion for Partial Summary Judgment (Doc. #60-1) is denied.

IT IS FURTHER ORDERED that plaintiff Lloyd and Timothy John Vickroy's Motion to Compel (Doc. #60-2) is denied.

IT IS FURTHER ORDERED that the motion of defendant Wisconsin Department of Transportation for Entry of Judgment is granted.

Dated at Milwaukee, Wisconsin, this 4th day of

September, 2002.

BY THE COURT

C. N. CLEVERT/s
C. N. CLEVERT
U. S. District Judge

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

TIMOTHY JOHN VICKROY,
LLOYD VICKROY,
Plaintiffs,

v. Case No. 01-C-1162

STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION;
INTERNET CORPORATION;
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ULTEA, INC.;
COUNTY OF RACINE, WISCONSIN;
TOWNSHIP OF MOUNT PLEASANT,
WISCONSIN;
CRUM & FORSTER,

Defendants.

ORDER CLARIFYING ORDER OF DISMISSAL DATED SEPTEMBER 4, 2002, DENYING PLAINTIFFS' MOTION FOR PERMISSION TO FILE A SECOND AMENDED COMPLAINT, AND DENYING PLAINTIFFS' MOTION FOR ORDER TO DISCLOSE

On September 4, 2002, this court denied plaintiffs' motion for hearing on motion to file amended complaint, granted the pending motions to dismiss, and granted the motion for entry of judgment. Judgment was entered that same day. To the extent the September 4, 2002, order did not properly reflect that Crum & Foster's motion to dismiss (Doc. #51) was also filed on behalf of Internet Corporation and Wearer D. Swannigan, it is so amended.

In addition, plaintiffs recently filed a motion for permission to file a second amended complaint, motion for second amended complaint and motion for order to disclose. A previous motion to amend was denied. Moreover, plaintiffs have not sought reconsideration,

moved to reopen the case, or shown that they have stated a claim entitling them to relief on their amended complaint. Lastly, an order requiring the named defendants to disclose the identities of officials, employees, and contractors who violated their ministerial duties with respect to the events of December 2, 1998, is not warranted as this case has been dismissed.

Now, therefore,

IT IS ORDERED that the letter request by Attorney Jeffrey S. Fertl for clarification of the court's order dated September 4, 2002, is granted.

IT IS FURTHER ORDERED that the motion to dismiss filed by Crum & Forster, Internet Corporation, and Wearer D. Swannigan is granted nunc pro tunc September 4, 2002.

IT IS FURTHER ORDERED that plaintiffs' motion for permission to file a second amended

complaint is denied.

IT IS FURTHER ORDERED that plaintiffs' motion for order to disclose is denied.

Dated at Milwaukee, Wisconsin, this 18th day of September, 2002.

BY THE COURT

C. N. CLEVERT/s
C. N. CLEVERT
U. S. District Judge